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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,523	07/09/2001	Jean-Philippe Champagne	CIS01-11(4197)	4906

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David E. Huang, Esq.  
CHAPIN & HUANG, L.L.C.  
Westborough Office Park  
1700 West Park Drive  
Westborough, MA 01581

EXAMINER
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NGUYEN, PHUOC H

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/901,523	<b>Applicant(s)</b> CHAMPAGNE ET AL.	
	<b>Examiner</b> Phuoc H. Nguyen	<b>Art Unit</b> 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 7-8, and 14-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-13 and 25-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/13/2001</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 7-8, and 14-24 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 9, 2004.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6,9-13, and 25-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker U.S. Patent 6,321,269.
4. Regarding claims 1,9,25, and 27, Walker discloses in a computerized device (eg. server), a method for communicating with an external transmission control protocol device (eg. client), the method comprising the steps of: providing an acknowledgment message to the external transmission control protocol device in response to a synchronization message from the external transmission control protocol device (eg. server 110 send ACK messages to client 110) (Figures 2 and 3; col. 4 lines 14-24 and 47-67); receiving a request message for content from the external transmission control protocol device (eg. client 120 request data from server 120) (col. 4 lines

Art Unit: 2143

47-51); and sending, to the external transmission control protocol device, a reply, message having at least a portion of the content, regardless of whether the computerized device received an acknowledgment message from the external transmission control protocol device in response to the acknowledgment message provided by the computerized device to the external transmission control protocol device (col. 6 lines 5-20).

5. Regarding claims 2,10,26, and 28, Walker further discloses transmitting the reply message to the external transmission control protocol device in response to request message from the external transmission control protocol device and in the absence of receiving the acknowledgment message from the external transmission control protocol device (Abstract; col. 5 lines 41 through col. 6 lines 20).

6. Regarding claim 3, Walker further discloses transmitting the reply message to the external transmission control protocol device in response the request message from the external transmission control protocol device and in the absence of establishing a transmission control protocol connection (col. 3 lines 32-43; and col. 5 lines 1-6).

7. Regarding claims 4 and 11, Walker further discloses comparing an acknowledgment number received from the external transmission control protocol device to an aggregate size of the content, when the acknowledgment number is one of greater than and equal to the aggregate size of the content, refraining from sending another content segment, and when the acknowledgment number is less than the size of the aggregate content (eg. MTU), sending another content segment (Figures 4 and 5).

8. Regarding claims 5 and 12, Walker further discloses queuing an acknowledgment message and the acknowledgment number received from the external transmission control

Art Unit: 2143

protocol device in response to the reply message prior to the step of comparing the acknowledgment number to the aggregate size of the content (col. 6 lines 21-33).

9. Regarding claims 6, and 13 Walker further discloses obtaining first transmission information from a prior message, received from the external transmission control protocol device, and providing second transmission information to the external transmission control protocol device based on the first transmission information obtained from the external transmission control protocol device (col. 5 lines 41-53 and col. 6 lines 5-20).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Watson et al. U.S. Patent 6,779,033

Kalajan et al. U.S. Patent 5,935,212

Ghani et al. U.S. Patent 6,215,769

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 571-272-3919. The examiner can normally be reached on Mon -Thu (7AM-4: 30PM) and off every other Friday.

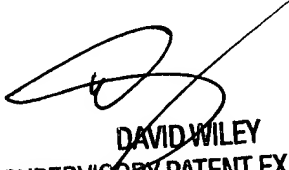
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phuoc H. Nguyen  
Examiner  
Art Unit 2143

February 14, 2005



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100